

FINAL MINUTES

Board of Agriculture and Consumer Services
Oliver W. Hill Building, 102 Governor Street
Richmond, Virginia
May 20, 2010

The meeting convened at 9:00 a.m. on Thursday, May 20, 2010, in Room 220 of the Oliver W. Hill Building, 102 Governor Street in Richmond, Virginia. President Rogers called the meeting to order. Mr. Mills led the group in prayer. The Board Secretary called the roll:

PRESENT

Stephen Ellis
Steve Sturgis
Paul W. Rogers, Jr.
William B. Bain
Robert Mills
Edward S. Fleming
Patrick A. Toulme
Charles C. Clark, Jr.
John D. Hardesty, Jr.
Melvin E. Murphy
Dr. Wondi Mersie
Dr. Alan L. Grant

DISTRICT

1st
2nd
3rd
4th
5th
7th
8th
9th
10th
11th

Representing Eddie N. Moore, Jr., President, Virginia State University
Representing Dr. Charles W. Steger, President, Virginia Tech

ABSENT

Vacancy 6th

STAFF PRESENT

Matthew J. Lohr, Commissioner
Sandra J. Adams, Deputy Commissioner
Roy E. Seward, Board Secretary

APPROVAL OF MINUTES

Mr. Clark made a motion that the minutes be approved as distributed. Mr. Murphy seconded the motion and the Board voted unanimously to approve the motion.

ELECTION OF OFFICERS

President Rogers turned the meeting over to Commissioner Lohr, who called for nominations for Board President.

Mr. Bain nominated Mr. Rogers for President and Mr. Murphy seconded the nomination. There being no other nominations, Mr. Clark moved that nomination be closed and that Mr. Rogers be elected President. Mr. Hardesty seconded the motion. The Board then elected Mr. Rogers President by a unanimous vote.

Mr. Rogers accepted the gavel as President and called for nominations for Vice President. Mr. Hardesty nominated Mr. Ellis for Vice President and Mr. Fleming seconded the motion. There being no other nominations, Mr. Sturgis moved that nomination be closed and that Mr. Ellis be elected Vice President. Mr. Clark seconded this motion. The Board elected Mr. Ellis Vice President by a unanimous vote.

Board of Agriculture & Consumer Services – Final Minutes

May 20, 2010

Page 2

Mr. Rogers called for nominations for Board Secretary. Mr. Murphy nominated Mr. Seward, and Mr. Hardesty seconded the motion. There being no other nominations, Mr. Clark moved that the nominations be closed, and that Mr. Seward be elected Secretary. Mr. Mills seconded the motion. The Board voted unanimously to elect Mr. Seward as Secretary.

RECOGNITION OF NEW COMMISSIONER AND DEPUTY COMMISSIONER

President Rogers welcomed Commissioner Lohr as Virginia's new Commissioner of Agriculture and Consumer Services. Mr. Lohr noted that it was an honor to be chosen to serve and that he looked forward to working with the Board.

President Rogers also congratulated Mrs. Adams on her appointment as the new Deputy Commissioner.

REPORT FROM BOARD MEMBERS

Mr. Murphy reported that Northern Virginia is gearing up for the farmers market.

Mr. Sturgis expressed appreciation for Commissioner Lohr and Governor McDonnell participating in the groundbreaking ceremony for the new seafood marketing facility in his district. He reported that the potato crop looks good. He noted that the wheat crop was hurt by the winter weather and that farmers expect a 20 percent reduction from a normal yield. He reported that the strawberry harvest in his district is good and that the berries are delicious. He expressed his thanks for the efforts of Gail Moody-Milteer of the Division of Marketing to promote strawberries in his district.

Mr. Bain reported that his district is getting sufficient moisture and that 2010 is expected to be a less than normal crop year. He noted that commodity prices are up. He informed the Board that the peanut crop has not been planted but that an increase in acreage is expected this year provided wet weather does not prevent farmers from planting their crop in a timely manner. He noted that soybean planting is coming along and that cotton is planted. He mentioned that the Virginia Peanut Growers Association, in conjunction with the Flying Squirrels baseball team in Richmond, had a peanut promotion night at the Diamond. He thanked the Commissioner for his participation in the promotion at the Diamond and for throwing out the first pitch of the game.

Mr. Fleming reported that the corn is up and looking good. He noted the hay crop looks very good and that local farmers markets are now open. He reported on the Sixth Annual Garden Fest held on April 24 through the sponsorship and support of Virginia Cooperative Extension, J. Sargeant Reynolds Community College and the Goochland Powhatan Master Gardener Association. He added that more than 200 persons attended and that over 50 master gardeners participated.

Dr. Mersie, who represented Virginia State University (VSU) President Eddie Moore, reported that nearly 540 persons received their undergraduate degrees at VSU during the May graduation ceremonies. He advised that Dr. Keith Miller, who will assume the duties as the new VSU President on July 1, 2010, is planning to attend the July Board meeting. He reported that the Virginia Farm Bureau Federation's Emerging Agricultural

Board of Agriculture & Consumer Services – Final Minutes

May 20, 2010

Page 3

Enterprises Advisory Committee will meet on June 24, 2010 at VSU's Randolph Farm. He noted that during its visit the Farm Bureau's committee will tour Randolph Farm to learn about VSU's Agricultural Research and Extension activities which are directed toward small farms. He mentioned that VSU's Agricultural Field Day will be held on August 24, 2010, and that Commissioner Lohr has agreed to be the featured speaker.

Dr. Grant, who represented Virginia Tech President Dr. Charles Steger, reported on the recent graduation of students from Tech's College of Agriculture and Life Sciences. He noted the enrollment for the coming fall is expected to be strong. He advised that Virginia Tech continues its search for a person to fill the position of Director of the Virginia Cooperative Extension. He also reported on the University's efforts to develop a strategic plan for restructuring the Cooperative Extension including the involvement of external stakeholders in the process.

In his report Mr. Mills noted that farmers in his area will likely be looking for sources of feed for their livestock if the currently short pasture conditions do not improve. He noted that beef cattle prices are up and that provides for some optimism. He reported that the majority of the corn crop has been planted and is up in the fields. He mentioned that three of Virginia's top five dairies are located in Pittsylvania County. He added that a methane digester is being constructed on one of those dairies and that it is expected to be online this fall.

Mr. Ellis reported that weather conditions have not been good for the crops but that farmers still have a chance for good corn and wheat production. He commented on crab harvesting in his district and noted that the U.S. Environmental Protection Agency (EPA) is taking over the Chesapeake Bay cleanup program and plans to make each Bay state more accountable in meeting cleanup goals. He added that he expects there will be an increased regulatory burden on farmers because of EPA's actions.

In his report Mr. Hardesty welcomed Mr. Lohr as Commissioner, congratulated Ms. Adams on her new appointment, and thanked Ms. Lohr for her services and friendship during her years on the Board. On other matters, he reported that his district experienced a small amount of frost damage on apples and peaches. He noted that the hay crops looked light, that 90 percent of the corn has been planted, that small grains will be light, and that soybeans are being planted. He reported that milk prices went up a little, but have come down again. He commented that sod farmers in his area seem to be receiving more orders which would indicate the economy is bouncing back.

Mr. Toulme reported that folks in Northern Virginia want to know that the Board is making sure that VDACS staff are enforcing the animal welfare laws and dealing with the problem pounds in Virginia. He added that, based on what information they have, folks in his district do not believe Northern Virginia has that problem. He commented that it was good to see the press release this week regarding the efforts of the U. S. Department of Agriculture, Fairfax County and VDACS to place Emerald Ash Borer

Board of Agriculture & Consumer Services – Final Minutes

May 20, 2010

Page 4

(EAB) traps in his district. He noted that EAB continues to be a significant concern to the residents of Northern Virginia.

Mr. Clark reported that pastures in his area have not gotten over the winter weather. He noted that in spite of the problems things are looking better this week thanks to three inches of rain.

Mr. Rogers reported that things in southeast Virginia look green. He noted that his area had three inches of rain, and that crops look good. He mentioned that the barley harvest is upon us and that the ethanol plant in Hopewell has begun to receive barley and is almost on line.

BOARD RECOGNITION OF ANDREA LOHR

Board President Rogers presented former Board member Andrea Lohr with a certificate of appreciation for her seven years of outstanding service as a member of the Board during 2003-2010. Ms. Lohr thanked everyone for their support during her tenure on the Board.

COMMISSIONER'S REPORT

Commissioner Lohr briefed the Board on personnel changes, recent and future events and other matters relating to the Department of Agriculture and Consumer Services. A copy of a written report on which his presentation was based was included in the Board's meeting folders.

LEGISLATIVE UPDATE

Deputy Commissioner Adams briefed the Board on key legislation addressed during the veto session in April that followed the regular 2010 Session of the General Assembly. A copy of the final edition of the VDACS legislative tracking record was included in the Board's meeting folders.

DEER DAMAGE & CHRONIC WASTING DISEASE

Robert W. (Bob) Duncan, Executive Director, Department of Game and Inland Fisheries (DGIF), briefed the Board on the work of DGIF to manage the state's deer population. In his presentation, Mr. Duncan mentioned that his agency's work with farmers and landowners to address damage on crops and orchards. He noted that DGIF will be holding meetings to seek public input on improving current regulations relating to animal management, hunting and related matters. Mr. Duncan also informed the Board of DGIF's efforts relating to chronic wasting disease.

Following Mr. Duncan's presentation, Mr. Sturgis shared with him concerns about the challenges that deer create for producers on the Eastern Shore where there is a high concentration of vegetable crops such as green beans. Mr. Sturgis explained that the presence of deer droppings in a field of green beans creates serious food safety issues that must be addressed when the crop is harvested.

VIRGINIA AGRICULTURAL STATISTICS REPORT

Herman Ellison, who heads the Virginia State Office of the National Agricultural Statistics Service (NASS) of the U. S. Department of Agriculture, introduced Jonathan Jones, a student from Virginia State University, who will be working with Mr. Ellison as a summer intern. Mr.

Board of Agriculture & Consumer Services – Final Minutes

May 20, 2010

Page 5

Ellison then briefed the Board concerning recent agricultural statistics reports released by NASS on Virginia. Mr. Ellison also reported on surveys to be conducted.

In response to a question from Mr. Sturgis regarding the inclusion of questions about no-till acreage in the next Ag Census, Mr. Ellison noted that best management practices will be considered for the next Ag Census.

ADMISSION OF ANIMALS INTO VIRGINIA – PROPOSED REGULATIONS

President Rogers called on Dr. Richard Wilkes, State Veterinarian and Director of the Division of Animal and Food Industry Services, who opened the staff presentation on the proposal to repeal the existing “Health Requirements Governing the Admission of Livestock, Poultry, Companion Animals, and Other Animals or Birds into Virginia,” 2 VAC 5-140, and the staff recommendation that the Board propose new regulations concerning “Health Requirements Governing the Admission of Agricultural Animals, Companion Animals and Other Animals or Birds into Virginia,” 2 VAC 5-141. Dr. Wilkes introduced Dr. Dan Kovich, Staff Veterinarian for Animal Care and Health Policy, and who presented a summary of the changes that are reflected by the draft of the new regulations. It should be noted that a copy of the draft proposed regulations (2 VAC 5-141) was sent to the Board prior to the May meeting and that a copy of the draft was included in the meeting folders provided to the Board members.

In response to a question from Mr. Clark, Dr. Kovich advised the Board that none of Virginia’s neighboring states currently has brucellosis. In response to President Rogers’ question, Dr. Kovich told the Board that the draft proposed regulations would not be putting any new requirements on the admission of small animals---except that cats must have rabies shots. In response to Mr. Ellis’s question about whether the draft proposal would create more admission requirements than other states, Dr. Kovich reported that the most significant changes included in the draft regulations relate to agricultural animals and that the suggested changes will be in line with what other states require. He added that, in drafting the proposed regulations, staff worked to prevent the creation of any unnecessary barriers to trade and commerce.

Following the staff presentation and questions from the Board, Mr. Mills moved the Board propose the repeal of the existing “Health Requirements Governing the Admission of Livestock, Poultry, Companion Animals, and Other Animals or Birds into Virginia,” 2 VAC 5-140, and that the Board authorize staff to take any and all steps necessary to have the proposal to repeal 2 VAC 5-140 filed with the Virginia Registrar of Regulations and published in The Virginia Register of Regulations for public review and comment. Mr. Clark seconded the motion and it was passed by the Board by a unanimous vote.

On the matter of the draft proposed regulations 2 VAC 5- 141, Mr. Murphy moved that the Board propose the draft “Health Requirements Governing the Admission of Agricultural Animals, Companion Animals and Other Animals or Birds into Virginia,” 2 VAC 5-141, as presented by staff and that the Board authorize staff to take any and all steps necessary to have the proposed regulations filed with the Virginia Registrar of Regulations and published in The Virginia Register of Regulations as proposed regulations for public review and comment. Mr. Toulme seconded the motion and it was passed by the Board by a unanimous vote.

GRADE “A” MILK – PROPOSED REGULATIONS

President Rogers called on Dr. Wilkes to open the staff presentation of draft proposed regulations “Governing Grade “A” Milk,” 2 VAC 5-490. Dr. Wilkes introduced John Beers,

Board of Agriculture & Consumer Services – Final Minutes

May 20, 2010

Page 6

Program Manager of the Dairy Program, who reviewed a summary of the changes included in the draft proposed regulations. A copy of the summary and the draft proposed regulations was sent to Board members prior to the May meeting and included in the meeting folders provided to Board members.

Following Mr. Beers' presentation, Mr. Seward explained that the draft proposed regulations would be promulgated under an abbreviated regulatory process permitted by state law.

Mr. Seward then reported that Mr. Hardesty, who is a partner in a dairy operation in Clarke County, presented him with the following statement concerning the draft proposed regulations 2 VAC 5-490: "I, John D. Hardesty, Jr., a member of the Board of Agriculture and Consumer Services, acknowledge that I may possibly be financially impacted as a result of the vote concerning draft proposed regulations "Governing Grade "A" Milk", 2 VAC 5-490. The nature of my personal interest is as follows: I am a partner in a dairy operation. I am a member of a business, profession, occupation, or group affected by the transaction. I am nevertheless able to vote fairly, objectively, and in the public interest." This statement was signed by Mr. Hardesty and dated May 20, 2010. (This statement will be included with the minutes of the May 20th meeting.)

Mr. Toulme moved that the Board propose the draft Regulations Governing Grade "A" Milk, 2 VAC 5-490, as presented by staff and that the Board authorize staff to take any and all steps necessary to have the proposed regulations filed with the Virginia Registrar of Regulations and published in The Virginia Register of Regulations as proposed regulations for public review and comment. Mr. Fleming seconded the motion and it was carried by a unanimous vote of the Board.

EQUINE INFECTIOUS ANEMIA – PROPOSED FINAL REGULATION

President Rogers called on Dr. Wilkes to begin the staff presentation of a summary of public comments on the proposed regulation on "Equine Infectious Anemia," 2 VAC 5-70, staff recommendations concerning the Board's response to public comments, and any recommended amendments to the proposed regulation. Dr. Wilkes introduced Doug Saunders, Deputy Director of the Division of Animal and Food Industry Services, who reviewed the comments received in writing and during the March 25th public hearing. Mr. Saunders reviewed the recommended amendments to the proposed regulation being offered by staff. It should be noted that a copy of the proposed regulation with suggested amendments and a copy of the transcript of the public hearing were provided to the Board prior to the May meeting and that the meeting folders provided to the Board included the transcript and the proposed regulation with the suggested amendments.

After the staff presentation, Mr. Seward advised the Board that Mr. Clark, who has horses on his farm, submitted the following statement concerning his participation in a vote on proposed regulation 2 VAC 5-70: "I, Charles C. Clark, Jr., a member of the Board of Agriculture and Consumer Services, acknowledge that I may possibly be financially impacted as a result of the vote concerning the proposed regulation on "Equine Infectious Anemia," 2 VAC 5-70. The nature of my personal interest is as follows: I have horses on my farm. I am a member of a business, profession, occupation, or group affected by the transaction. I am nevertheless able to vote fairly, objectively, and in the public interest." This statement was signed by Mr. Clark and dated May 20, 2010. (This statement will be included with the minutes of the May 20th meeting.)

Board of Agriculture & Consumer Services – Final Minutes

May 20, 2010

Page 7

Mr. Ellis moved that the Board adopt the proposed regulation concerning Equine Infectious Anemia, 2 VAC 5-70, with amendments presented by staff today and that the Board authorize staff to take any and all steps necessary to make this a final regulation of the Board. Mr. Hardesty seconded the motion and it was carried by a unanimous vote by the Board.

BRIEFING ON FOOD DISTRIBUTION PROGRAM

President Rogers introduced Beth Beville, Program Administrator for the Division of Marketing's Food Distribution Program, who briefed the Board on this program.

In response to questions from the Board, Ms. Beville advised that it is the schools that decide what food is provided to them and whether the food comes from Virginia and whether it is local or not. Regarding local products, she noted that some producers are already producing as much as they can provide for the schools.

BRIEFING ON MOTOR FUELS INSPECTION PROGRAM

Andy Alvarez, Director of the Division of Consumer Protection, introduced Bob Bailey, Program Manager for Product and Industry Standards, who presented the briefing on VDACS' Motor Fuels Inspection Program. Mr. Alvarez also introduced Robert Glowacky, Trace Organics Group Manager, Division of Consolidated Laboratory Services.

During his presentation Mr. Bailey introduced Chris Anderson of Zeltex Corporation who demonstrated new testing equipment that VDACS will be using in its motor fuels inspection program. In response to a question from the Board about increasing the use of ethanol in gasoline, Mr. Anderson advised that gasoline with 15 percent ethanol does not create concerns, but that as you approach 20 percent ethanol you will see problems.

DIVISION OF ANIMAL & FOOD INDUSTRY SERVICES UPDATE

Dr. Wilkes introduced Dr. Kovich who presented the Board with a presentation on the role of the Board and VDACS concerning the state's comprehensive animal care laws. He explained that state law permits the Board to adopt regulations and guidelines concerning the care and transportation of animals. The law also permits the Board to assess sanctions or civil penalties for pounds and shelters found to be in violation of state laws and regulations associated with the Board.

During his response to questions, Dr. Kovich advised that VDACS has no authority over local animal control officers. He noted that VDACS sets standards for animal control officer training but that it is local government that funds this training.

NEW BUSINESS

No new business was discussed.

PLANS FOR FUTURE BOARD MEETINGS

President Rogers called on Mr. Seward who advised the Board that Mr. Sturgis has agreed to host the summer meeting and tour on the Eastern Shore. He then reviewed plans for the Board's summer meeting on July 14 and a tour on July 15. He added that the Board's last meeting of the year will be on December 9, 2010 in Richmond.

Board of Agriculture & Consumer Services – Final Minutes

May 20, 2010

Page 8

PUBLIC COMMENT PERIOD

Eileen McAfee of Richmond briefed the Board concerning the public impact of the lack of action by the State Veterinarian to address complaints about local pounds and shelters.

Ann Joyner of Sussex County explained that she was following up her report at the March Board meeting when she advised the Board of the unacceptable conditions at the pounds operated by Sussex County. She noted that local government will do nothing to correct the problems until the Board assesses penalties.

ADJOURNMENT

There being no further business, the Board adjourned at 1:15 p.m.

Respectfully submitted,

Paul W. Rogers, Jr., Board President

Roy Seward, Board Secretary